



Your neighbourhood, your views

St Quintin and Woodlands Neighbourhood Forum

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Kevin Savage
Planning Department
RB Kensington & Chelsea
Town Hall
Hornton Street
London W8

June 12th 2015

Dear Mr Savage,

PP/15/02798 Nursery Lane/Land west of Highlever Road

This Neighbourhood Forum wishes to object to the above application, on grounds as set out below. The Forum was established by the St Helens Residents Association in 2012 and subsequently designated by the Council in July 2013 as a body with powers under the 2011 Localism Act to prepare a neighbourhood plan for an area which includes the application site.

The Forum shares its membership with the St Helens Residents Association, and is open to anyone who lives or works in the designated neighbourhood area. It has a separate management committee from that of the residents association.

The St Helens Residents Association is submitting a separate letter of objection to application PP/15/0278 setting out policy grounds from the NPPF, London Plan, Core Strategy Local Plan, and Oxford Gardens CAPS Statement on which the proposals should be refused. This letter from the StQW Forum focuses on the relationship between the proposals and the St Quintin and Woodlands Draft Neighbourhood Plan. The existence of the StQW Draft Plan leads to further grounds for refusal of this application.

The StQW Draft Neighbourhood Plan was formally submitted to the Council on 17th May for Examination. The Draft Plan was published for an 8 week 'pre-submission' public consultation between December 2nd 2014 and January 25th 2015. The Council is currently undertaking a further and final 6 week period of consultation ending on July 16th 2015. The Forum is liaising with Nicholas Holgate on the selection of an independent Examiner, and the Examination of the StQW Draft Plan is due to take place in September 2015.

There are three sets of reasons relating to the StQW Draft Neighbourhood Plan why application PP/15/0278 should be refused:

- Prematurity
- Emerging weight of the St Quintin and Woodlands Draft Neighbourhood Plan
- Conflict with specific policies and designations proposed within the Draft Neighbourhood Plan

Prematurity

In his response to the debate on the petition on the three St Quintin backlands (*Save our Green Spaces*) at the Council Meeting on April 15th, Cllr Tim Coleridge stated that the Council would 'give serious consideration' to refusing any planning application on these sites until the

Examination of the StQW Draft Plan was completed. Given that the applicants have chosen to submit an application on 4th May, rather than await the Examination, the Council needs to give consideration to the case for refusal on grounds of prematurity.

CLG Planning Practice Guidance 009 on Determining a Planning Application sets out the situations in which prematurity may be a material consideration, as follows:

- a) *the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and*
- b) *the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.

The proposals for housing development at Nursery Lane are central to the StQW Draft Neighbourhood Plan, and the future of this land was the subject of 49 of the 90 comments received as a result of Regulation 14 pre-submission consultation on the Draft Plan.

Legal advice to the Nursery Gardens Action Group and to the StQW Forum, in the form of an Opinion from Matthew Hornton QC, is that the application should be refused on grounds of prematurity.

Emerging weight of the St Quintin and Woodlands Draft Neighbourhood Plan

Paragraph 007 of CLG Planning Practice Guidance on neighbourhood planning states as below (highlighting in bold is ours):

What weight can be attached to an emerging neighbourhood plan when determining planning applications?

*Planning applications are decided in accordance with the development plan, unless material considerations indicate otherwise. An emerging neighbourhood plan may be a material consideration. Paragraph 216 of the National Planning Policy Framework sets out the weight that may be given to relevant policies in emerging plans in decision taking. Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force, **decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan. The consultation statement submitted with the draft neighbourhood plan should reveal the quality and effectiveness of the consultation that has informed the plan proposals.** And all representations on the proposals should have been submitted to the local planning authority by the close of the local planning authority's publicity period. It is for the decision maker in each case to determine what is a material consideration and what weight to give to it.*

The StQW Consultation Statement sets out the processes of consultation undertaken in preparing the StQW Draft Neighbourhood Plan. The Consultation Statement Annexe lists all consultation responses received.

There were 90 consultation responses submitted during the December 2nd 2014 to January 2015 consultation period. Of these 47 supported the proposed designation of Nursery Lane as Local Green Space. There were two respondents arguing that the land should be developed for housing (Rolfe Judd Planning acting for the landowner, and CgMS Consulting acting for Metropolis Property Ltd).

Following the pre-submission consultation on the Draft Plan, an open meeting of the Forum on February 5th voted unanimously to add StQW Policy 4b to the Submission Version of the Draft Plan. The content of this policy, and an additional Draft Policy 4c, is set out below.

In accordance with CLG Planning Practice Guidance, the Forum asks the Council to give significant weight to these consultation responses, and to the Draft StQW Neighbourhood Plan.

Policies proposed within the St Quintin and Woodlands Draft Neighbourhood Plan

There are three proposed Open Space policies within the StQW Draft Plan, as submitted to RBKC, which have relevance to an application on the land at Nursery Lane (and on the other two remaining St Quintin backlands). These are as below. The background and their 'reasoned justification' for each is set out in the StQW Draft Plan at section 4 and in Annexe C.

4a) Reflecting their origins as communal sports and recreation areas, to protect from development the remaining 'backland' private open spaces in the neighbourhood, by designating as Local Green Space (under paragraph 77 of the National Planning Policy Framework) the following pieces of land:

- ***Land north of Nursery Lane, behind Brewster Gardens, Dalgarno Gardens, and Highlever Road.***
- ***Land behind Kelfield Gardens, Wallingford Avenue, and St Quintin Avenue***
- ***Land behind Highlever Road, Pangbourne Avenue, and Barlby Road (WLBC site)***

4b) In the context of a neighbourhood plan which allocates alternative sites for housing use, housing development on the three remaining original backlands of the St Quintin Estate will not be permitted (these being):

- ***Land north of Nursery Lane, behind Brewster Gardens, Dalgarno Gardens, and Highlever Road.***
- ***Land behind Kelfield Gardens, Wallingford Avenue, and St Quintin Avenue***
- ***Land behind Highlever Road, Pangbourne Avenue, and Barlby Road (WLBC site).***

4c) Within that part of the neighbourhood designated as a conservation area, to resist any development on land which falls outside the NPPF definition of Previously Developed Land, other than where such development provides substantive public benefit in terms of meeting social care/health needs, or provides for recreation or public amenity.

The Forum considers Draft Policies 4b and 4c to 'have regard' to the NPPF. We also consider them to be in general conformity with RBKC Core Strategy/Local Plan policies CR 5 Parks, Gardens, Open Spaces and Waterways, CL1, CL3, CE4 and CE6. The Forum considers that these draft policies give careful regard to the following NPPF 'core principles':

Planning should

- *be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area.*

- *contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;*
- *encourage the effective use of land by reusing land that has been previously developed (brownfield land) provided that it is not of high environmental value;*
- *conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;*

A separate set of StQW Draft Policies relating to Housing is set out in Section 10 of the Draft Plan. These follow from an options appraisal of four possible development sites in the neighbourhood. Three of these sites are allocated for housing under StQW Draft Policies 10a, 10b and 10c. The fourth site (Nursery Lane) is not, for reasons set out in the options appraisal and at section 4 and Annexe C of the StQW Draft Plan.

The total number of housing units that could be developed on these three sites is projected as a maximum of 126, as compared with 20 proposed for the Nursery Lane site. The Council has made clear that it will oppose one of these sites (additional housing as mixed use in Latimer Road) on the basis of a policy conflict with the current RBKC Policy CF5 restricting uses other than B1 office space within Employment Zones (four separate sections of Latimer Road forming part of the Freston Road/Latimer Road Employment Zone).

It remains to be seen whether an examiner of the StQW Draft Plan will accept the proposed StQW Policies on housing site allocations and on Latimer Road. This is a further argument for refusal on grounds of prematurity.

These proposed StQW policies on Open Space and on Housing require to be examined and tested for compliance with the Basic Conditions for neighbourhood plans. On the first Open Space Draft Policy 4a (Local Green Space designations) there are specific NPPF criteria to be met (at NPPF paragraph 77). The Council has already stated that it will leave this decision to the independent Examiner of the StQW Draft Plan.

The applicants assert that the land at Nursery Lane does not meet the NPPF criteria. This is not their decision to make. Private open space in other parts of the country has been designated as Local Green Space via a neighbourhood plan (e.g. Church Field at Felpham). The case for designation is detailed at Annexe C of the StQW Draft Plan.

On the second proposed StQW Policy (4b), Cllr Coleridge has said in correspondence with the Forum *'The StQW Draft Policy 4b on backland sites is not positively prepared as required by the NPPF'....However, it will be up to the Forum to argue this with the examiner'*. Officers have stated that they will oppose this StQW Policy at examination.

Neighbourhood plan policies are required to 'have regard' to the NPPF. This is not the same test as for 'soundness' as applied to a Local Plan. Given that a very similar policy forms part of the extant Oxford Gardens 1990 CAPS it is hard to see how Policy 4b would fail the 'general conformity' test. Its level of 'regard for' the NPPF will be argued at examination.

The third proposed StQW Policy (4c) was added to the Submission Version of the StQW Draft Plan in the light of the stance taken by officers, and Cllr Coleridge, on StQW Draft Policies 4a and 4b. The Forum considers that Draft StQW Policy 4C above has full regard to the NPPF and in particular to the Paragraph 17 'core principle' on prioritising development on brownfield land.

The StQW Forum contends that the 2010 RBKC Core Strategy policies on Housing are silent on the subject of how much new housing should be provided in different parts of the Borough, including within the StQW neighbourhood. Nor has the Council carried out a detailed identification of all potential housing sites in the manner that the NPPF Paragraph 47 requires (and as other London Boroughs have undertaken).

A neighbourhood plan that has carried out this exercise within its own designated area, and which allocates sites on the basis of suitability for housing use, should at least be allowed to proceed to Examination prior to applications being determined on a site which local people have made clear, in a statutory pre-submission consultation exercise, is *not* considered appropriate for housing development.

At no stage has RBKC identified the land at Nursery Lane as a potential housing site. As pointed out in the objection letter from the St Helens Residents Association, this piece of land appears as a 'garden or other green space' on the map at page 441 of the 2010 Core Strategy. The applicants view it as a 'windfall site'.

For all the above reasons, the StQW Neighbourhood Forum asks the Council to refuse application **PP/15/02798**.

We are writing separately on the subject of the pre-application advice provided by the Council on this application, copies of which the Forum has recently received in response to a Fol request.

Yours sincerely,

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cc Cllr Tim Coleridge
Cllr Pat Healy, Cllr Robert Thompson (Dalgarno ward)
Amanda Frame, Michael Bach, Kensington Society